



# UNITED STATES PATENT AND TRADEMARK OFFICE

50  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,398	01/27/2000	Al J. Mooney		9822
7590	04/20/2005		EXAMINER	
Coats & Bennett PLLC P O Box 5 Raleigh, NC 27602			ART UNIT	PAPER NUMBER

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST-NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT      PAPER

20050418

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See Attached Notice

Sam Rimell  
Primary Examiner  
Art Unit: 2165

The appeal brief filed on July 16, 2004 is defective because it includes new evidence which was not previously made of record. In particular, the brief (after the claims) includes two new evidence documents which were not made of record prior to the submission of the brief or approved for entry by the examiner after final rejection as part of a separate paper.

MPEP 1207 states:

*A new amendment, new affidavit or other new evidence must be submitted in a separate paper from the appeal brief. Entry of a new amendment, new affidavit, or other new evidence in an application on appeal is not a matter of right".*

Appellant is required to submit a revised brief that does not include the new evidence documents, as they were not previously submitted in the record prior to the brief.

To avoid dismissal of the appeal, appellant must ratify the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing of this communication, whichever is longer; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.

  
Sam Rimell  
Primary Examiner  
Art Unit 2165